

December 7, 2018



**Talbot County Planning Commission**  
**Final Decision Summary**

Wednesday, November 7, 2018 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

**Attendance:**

Commission Members:

John N. Fischer, Jr., Chairman  
Paul Spies, Vice Chairman  
William Boicourt  
Michael Sullivan  
Phillip "Chip" Councill

Staff:

Mary Kay Verdery, Planning Officer  
Miguel Salinas, Assistant Planning Officer  
Brennan Tarleton, Planner I  
Elisa Deflaux, Environmental Planner  
Mike Mertaugh, Assistant County Engineer  
Tony Kupersmith, County Attorney  
Carole Sellman, Recording Secretary

**1. Call to Order**—Commissioner Fischer called the meeting to order at 9:00 a.m.

**2. Decision Summary Review**—October 3, 2018—The Commission noted the following corrections to the draft decision summary:

- a. Line 145, The "he" should be spelled out: "Mr. Hekenbach".
- b. Line 248, change to read: "Commissioner Fischer commended Ms. Verdery and Planning and Zoning staff for all they did."
- c. Line 272, delete "you can..." and submit: "One could develop a Short Term Review Board composed simply of five reasonable people."
- d. Line 273, delete "maybe" and delete "You try to make everyone happy....." and submit: "He added that in his experience partisan review boards commonly become dysfunctional."

**Commissioner Councill moved to approve the draft Planning Commission Decision Summary for October 3, 2018, as amended. Commissioner Sullivan seconded the motion. The motion carried unanimously.**

**3. Old Business**—None.

**4. New Business**

- a. Administrative Variance—James and Carol Bruce, #A242—8764 Mt. Pleasant Court, St. Michaels, Maryland 21663, (map 22, grid 23, parcel 320, Lot 11, zoned Rural Residential), Elizabeth Fink of Fink, Whitten & Associates, LLC, Agent.

Mr. Tarleton presented the staff report of the applicant's request for six variances within the Shoreline Development Buffer (Buffer): 1) a first floor kitchen addition

that will generate an increase of 104 sq. ft. of new Gross Floor Area (GFA) located 84.2' from Mean High Water (MHW); 2) a pervious deck addition generating no new lot coverage to be located 84.1' from MHW; 3) a flat roof balcony addition over an existing sunroom creating no new GFA located 95.4' from MHW; 4) an increase in roof height to include a second floor from 24'-5" to 33'-1"; 5) an increase in roof height of the second floor over the garage from 18'-7" to 33'-1" creating no new lot coverage and approximately 125 sq. ft. of GFA combined between variance (4) and (5) located 91.4' from MHW; 6) increase in kitchen roof height from 14'-9.5" to 24'-5" creating no new lot coverage or GFA located 88.4' from MHW. The total net increase in GFA within the Buffer will be approximately 229 sq. ft. All of the proposed expansions to the residential structure will be located no closer to MHW than currently existing today.

Staff recommendations include:

1. The applicant shall mitigate for the disturbance to the Shoreline Development Buffer at a 3:1 ratio for all permanent disturbances to the 100' Shoreline Development Buffer and a 1:1 ratio for all temporary disturbances to the Buffer.
2. The applicants shall submit a Buffer Management Plan detailing the mitigation planting requirements. The applicant cannot obtain any building permits associated with this variance until such time as a Buffer Management Plan has been approved by Talbot County.
3. The applicants shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
4. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's Notice to Proceed.

Elizabeth Fink and Christine Dayton appeared on behalf of Mr. & Mrs. Bruce. Commissioner Councell asked about the tree removal. Ms. Fink stated she brought some pictures of the trees and indicated they will not be removed, only limbed up. Commissioner Boicourt stated Ms. Fink's responses to the variance criteria were some of the most helpful to the Commission.

Commissioner Fischer asked for public comments; none were made.

**Commissioner Boicourt moved to recommend to the Planning Officer to approve the six administrative variances for James and Carol Bruce, 8764 Mt. Pleasant Court, St. Michaels, Maryland 21663, provided compliance with staff recommendations occurs. Commissioner Sullivan seconded the motion. The motion carried unanimously.**

- 100 b. Major Single Lot Subdivision—Wootenau Creek Farm, LLC/Gary Gannon—  
101 9479 Chapel Road, Easton, Maryland 21601 (map 26, grid 8, parcel 35, zoned  
102 Countryside Preservation), Chris Waters, Davis, Bowen & Friedel, Inc., Agent.

103  
104 Mr. Tarleton presented the staff report for a Sketch Plat for a Small Scale  
105 Subdivision to divide Tax Parcel 35 into 2 buildable lots and establishing a 40'  
106 wide private road right-of-way on a property located at 9479 Chapel Road,  
107 Easton, Maryland.

108  
109 Staff recommendation includes:

- 110  
111 1. Address the October 10, 2018 Technical Advisory Committee comments from  
112 the Department of Planning & Zoning, Department of Public Works,  
113 Environmental Health Department, Talbot Soil Conservation District and the  
114 Environmental Planner prior to the Preliminary Plat submittal.

115  
116 Mr. Waters stated the applicant, Mr. Gannon, is proposing to subdivide and  
117 create a private road easement on the property; establishing a new lot to build a  
118 house for his daughter. Mr. Waters also stated the property has an easement with  
119 Eastern Shore Land Conservancy (ESLC) and there is a need to minimize impacts  
120 on the property. As such, he stated, they are pulling the lot out of the woods,  
121 going around the current house, and using the ditch as a back boundary line to  
122 create a buildable area. Mr. Waters indicated the subdivision is being reviewed by  
123 the ESLC.

124  
125 Commissioner Councill asked about the detached building. Mr. Waters responded  
126 the building functions as a shed and the applicant will obtain a temporary use  
127 certificate while the house is being built. Once the home is completed the shed  
128 will be demolished.

129  
130 Commissioner Fischer asked for public comments; none were made.

131  
132 **Commissioner Spies moved to approve the sketch major single lot**  
133 **subdivision with private road for Wootenau Creek Farm, LLC/Gary**  
134 **Gannon, 9479, Chapel Road, Easton, Maryland; with staff recommendations.**  
135 **Commissioner Sullivan seconded the motion. The motion carried**  
136 **unanimously.**

- 137  
138 c. Major Site Plan—Debra Stockman-Lier (Bozman Country Store) #SP599—7980  
139 Quaker Neck Road, Bozman, Maryland 21612 (map 31, grid 16, parcel 112,  
140 zoned Village Center), Brett Ewing, Lane Engineering LLC, Agent.

141  
142 Waivers: 1) Minimum Parking Requirements; 2) Loading Areas  
143

Mr. Tarleton presented the Major Site Plan staff report for approval of a two-story, 1,184 sq. ft. Gross Floor Area (GFA) General Retail building (Country Store and Deli Carry-Out) with a 608 sq. ft. covered porch and associated parking.

Additionally the applicant is requesting waivers from the following sections of the updated *Talbot County Code*:

1. §190-41.3 - Minimum Parking Requirements
2. §190-41.7 - Loading Areas

Staff recommendations include:

1. The applicant shall obtain Final approvals for a Minor Revision Plat in order to establish this lot as a buildable lot prior to Final Major Site Plan approval.
2. The applicant shall address the October 10, 2018 Technical Advisory Committee comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District and the Environmental Planner prior to the Preliminary Plat submittal.
3. The applicant shall make applications to and follow all of the rules, procedures, and construction timelines as outlined by the Office of Permits and Inspections regarding new construction.
4. The applicant shall commence construction on the proposed improvements within twelve (12) months from the date of final approval.

Brett Ewing, of Lane Engineering, LLC appeared with applicant Debra Stockman-Lier and Lee Holt. Mr. Ewing stated there are two waiver requests, one for off-street parking and one for loading spaces, on a property located at 7980 Quaker Neck Road in Bozman owned by Ms. Stockman-Lier.

Mr. Holt gave some of the history of the purchasing of this site and the history of the building. He stated they were trying to protect Ms. Stockman-Lier in the purchase until they were sure she could proceed with the use for a store.

Ms. Stockman-Lier stated her intent with the project is to provide the community a place for take-out breakfast and lunch and other conveniences.

Mr. Ewing stated they are requesting two waivers of which one is a reduction of the required seven off-street parking spaces to four. He stated they were going to request a variance but based on the Critical Area Commission's staff comments they modified the plan to what is before the Commission today. Mr. Ewing reasoned the overall required parking is not needed for the store based on the Environmental Health Department's prohibition of seating within the store, the elimination of the bike rack, the close proximity to other residential uses, dwellings in the area, and customer time in the store. Although the staff has taken a softer stance on the variance component, he felt it would be unfair for Ms.

190 Stockman-Lier to have to go back for another plan revision and public hearing  
191 with the Board of Appeals. Therefore, they are requesting the Planning  
192 Commission allow the project to proceed as proposed. Mr. Ewing noted that if  
193 parking becomes an issue, a notation will be on the plan that the Director may  
194 require additional parking as needed; additional area has been accommodated  
195 with the site design to potentially allow additional parking spaces and can be  
196 addressed with a minimal modification to the plan. Mr. Ewing stated he would  
197 like to request a condition that they would not have to come back to the Planning  
198 Commission for the review of 2-3 additional parking spaces, if needed.  
199

200 Mr. Ewing stated the other waiver request is for a loading space as the code says  
201 that one loading space is required if the structure has a gross floor area of 10,000  
202 or more square feet. He added they are requesting a waiver from that provision.  
203

204 Commissioner Sullivan asked what the rationale was for the health department to  
205 prohibit seating. Mr. Holt responded the initial plan showed a sitting area and the  
206 intention was not to serve food but to provide a place to sit for someone who  
207 bought a paper. He noted the store is not to be operated as a restaurant. Mr. Ewing  
208 added a restaurant has to have public rest rooms and the Health Department  
209 required no sitting of any kind with a notation on the plan stating the bathroom  
210 was "not for public use". Commissioner Councill asked for clarification of the  
211 second floor. Mr. Holt responded the floor will be used for storage and an office.  
212 Mr. Ewing further clarified the office will be for owner's use.  
213

214 Commissioner Councill asked Ms. Verdery what the process would be if  
215 additional parking spaces were required. She responded that the Planning Director  
216 can approve up to 300 sq. ft. but there is also a maximum lot coverage  
217 requirement per the Critical Area. Therefore, she stated, it will depend on what is  
218 proposed. Commissioner Councill asked how the Critical Area responded. Ms.  
219 Verdery said that the proposed project is very close to the maximum lot coverage  
220 allowed and a request to exceed the limit would require a variance process.  
221 Should the Critical Area challenge the variance, she noted, the applicant is stuck  
222 where they are. Commissioner Councill stated he intended to support the project,  
223 but felt the limited parking spaces are going to be a problem. Ms. Verdery stated a  
224 line revision to add adjacent land could be one solution and noted other  
225 alternatives, including the possibility of contracting with the church to use the  
226 parking lot. Commissioner Spies stated he feels comfortable with the proposal but  
227 having a clear pathway for how to get two more spaces would be best. Mr. Ewing  
228 responded that south of the drive will accommodate those additional spaces.  
229 Commissioner Spies asked about permeable pavers. Mr. Ewing stated that the  
230 Critical Area views permeable pavers as lot coverage.  
231

232 Commissioner Councill asked if the Commission could approve the major site  
233 plan with the additional spaces. Commissioner Spies noted that additional spaces  
234 require a Critical Area variance and the applicant would have to provide good  
235 justification. Ms. Verdery also noted that the Planning Commission gives a

236 recommendation on the special exception, but not the variance; the variance  
237 request goes directly to the Board of Appeals.  
238

239 Mr. Ewing stated the site and stormwater are designed for seven spaces. He asked  
240 if a site plan amendment process is required if they hatch an area on the plan that  
241 indicated additional potential parking spaces. Mr. Salinas responded the hatched  
242 area could be viewed as additional lot coverage, but he could not speak to the  
243 Critical Area staff's interpretation.  
244

245 Mr. Holt stated he appreciates the Commission's effort in finding a solution to  
246 move the project forward in a way that the applicant is not faced with additional  
247 costs and hearings, if possible.  
248

249 Mr. Salinas stated that he would rather explore the possibility, by a note on the  
250 plan, that says additional parking spaces are potentially subject to Board of  
251 Appeals approval.  
252

253 Commission Councill asked if it is possible to ask a member of the Critical Area  
254 Staff in attendance for their comment.  
255

256 Nick Kelley, Program Chief of the Critical Area Commission spoke and said they  
257 understand the issue with the parking spaces and would be willing to work with  
258 the County and the applicant to figure out some sort of answers if there is a need  
259 for additional parking.  
260

261 Mr. Salinas noted that a condition of working with Critical Area could be part of  
262 the motion.  
263

264 Commissioner Sullivan asked if it was designated on the plan where the  
265 additional parking area is going and whether the area will be marked.  
266

267 Mr. Ewing asked for assurance that they are still going forward with the request  
268 for a Parking Waiver, even though they would include a hatched area for future  
269 parking. He further wanted to request a change to a condition that the major site  
270 plan go to the Technical Advisory Commission for review and noted that in  
271 previous meetings, they had discussed going forward to CRM. Ms. Verdery stated  
272 the site plan should go back to TAC so everyone has an opportunity to review a  
273 fully-engineered site plan. Mr. Ewing stated that County staff would still get an  
274 opportunity to review the plans without going to TAC. Staff pointed out that a  
275 TAC site plan review was a recommendation in the staff report and not a  
276 condition and therefore not a Planning Commission matter for decision.  
277

278 Commissioner Fischer felt the proposed store and deli will become the center of  
279 the Community.  
280

281 Fischer asked for public comments; none were made.

Commissioner Spies moved to approve waivers for parking standards and a loading space for Debra Stockman-Lier (Bozman Country Store), 7980 Quaker Neck Road, Bozman, Maryland 21612; Commissioner Sullivan seconded the motion. The motion carried unanimously.

Commissioner Spies moved to approve the major site plan for Debra Stockman-Lier (Bozman Country Store), 7980 Quaker Neck Road, Bozman, Maryland 21612, with all staff recommendations being complied with; and requested staff, owners and Critical Area move to pursue 2-3 additional parking spaces on the property. Commissioner Boicourt seconded the motion. The motion carried unanimously.

Commissioner Fischer stated that Commissioner Spies had to depart, therefore there were only four (4) members of the Commission present and that a tie vote is considered a negative vote. He stated that any applicant may choose to withdraw their application until the next month without penalty. None chose to do so.

- d. Major Revision Plat—Susan R. Payne—25843 Ripple Beach Lane, Royal Oak, Maryland 21662 (map 46, grid 12, parcel 148, zoned Village Center/Critical Area), Sean Callahan, Lane Engineering, LLC, Agent.

Mr. Tarleton presented the staff report for the major revision plat for the purpose of reconfiguring 32 existing lots of record into 15 larger lots.

Staff recommendations include:

1. Address the October 10, 2018 Technical Advisory Committee (TAC) comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District, the Environmental Planner and the Critical Area Commission prior to Final Plat submittal.
2. The applicant must take all of the required steps and obtain all the necessary approvals for the 50' BMA proposed prior to final TAC review.
3. The applicant must submit a written letter of exemption to the Department of Planning and Zoning requesting to move forward under the current Chapter 190 prior to staff review of the Final for this Major Revision Plat.

Sean Callahan, Dani Walton and Ryan Showalter appeared on behalf of applicant. Mr. Callahan stated the project is very much the same as at sketch. He noted they are combining lots to create larger lots and they have been submitting permits, including engineering plans, water and sewer installations, wetland fills, construction plans, sediment controls, and national pollution discharge elimination sewer permit. He added they propose to fill significant portions of site so that the road that currently serves the house meets flood plain requirements; on the 1972 wetlands map there is no wetland on the property at all, there is a big U on the map where the wetland is on the property and everyone believes the U was

created when the site was used for the Talbot County ferry dock construction and reconstruction around 1973. Mr. Callahan stated they suggested filling the entire wetland, around 6,000 sq. ft., and showed the Commission sheet 7 of the wetland application they provided as part of the avoidance and minimization charge to obtain a wetland permit as well as their alternative. He further stated they provided the wetland fill on the other lots and they are fairly confident that it will be less. He noted that where some of the roads shown on old plats were actually built there is fill from roads and construction which confused the totals. Mr. Callahan stated he is confident their plan is accurate.

Mr. Showalter clarified that the application process to approve a Modified Buffer Area (MBA) needs a County Council Member to put forward the application. He stated they had not yet filed a MBA application, but with the new Council being elected the previous night he hoped it would not be long before they can move forward and submit. He stated they fully understand any final approval of a MBA Plat is contingent upon approval of the MBA application.

Commissioner Councell stated he would like to hear from the staff on the proposed MBA. Mr. Salinas responded that what Mr. Showalter stated is correct. He stated that the modified buffer is currently conceptual and any MBA also requires review and approval by the Critical Area Commission. As such, he added, the project cannot go to final plat until the process of approving the modified buffer, which involves going before the Planning Commission, County Council and Critical Area, is complete; a process which will take several months.

Mr. Showalter stated that drawings have been submitted along with proposed responses to the MBA criteria and there is a collaborative effort to get it approved in a way that is more environmentally sensitive. The reason for approval of the preliminary plat today is that, if done before November 10<sup>th</sup>, they can continue proceeding under the existing zoning regulations.

Commissioner Fischer asked if there are particular changes in the updated zoning ordinance that would apply to this project. Mr. Showalter responded that, although they have not been able to evaluate all of the changes, there are a number that could apply to this project because of its complexity. Commissioner Fischer noted he is worried about the MBA issue and did not want to get ahead of the Critical Area Commission that is in attendance today.

Mr. Showalter stated they are not applying for a MBA today and noted there is another modified buffer area that wraps around the northern and eastern portions of the peninsula; they would like to approve a new MBA in the northeastern portion.

Commissioner Fischer asked for public comments; none were made.



Emily Vainieri, Office of Attorney General noted that this was their first time understanding the timing requirement and, although Chapter 190 becomes effective for the underlying zoning, it has no effect on the Critical Area zoning, which must be reviewed before it becomes effective. She stated that because there is a conceptual MBA on the preliminary plat, one of the requests is that until a final MBA is approved, the plat cannot be finalized. She also stated that the lot consolidation findings must be submitted to the Critical Area Commission for review and approval and the findings cannot be based on a conceptual MBA but must be based on the actual MBA. If the MBA area is not granted, she added, then the applicant should be required to come back and revise the Critical Area with the actual 100-foot buffer and restrictions for Commission approval.

Commissioner Cuncell asked for confirmation that the application has to come back to the Commission if the MBA area is not approved. Mr. Kupersmith responded that is correct and can be stated in the motion to approve the preliminary plat.

Ms. Verdery stated condition number two addresses the requirement that they must obtain the necessary approvals. She suggested the Commission may want to extend the condition to say they applicant must return before the Commission if they do not receive approval.

Mr. Showalter stated that they are requesting a conceptual MBA, but they understand they are not taking an action today regarding that request.

**Commissioner Boicourt moved to approve the preliminary major revision plat for Susan R. Payne, 25843 Ripple Beach Lane, Royal Oak, Maryland, with Items 2 and 3 (as revised) of the CA Commission staff comments and all staff recommendations. Commissioner Sullivan seconded the motion. The motion carried unanimously. (4-0 Spies absent)**

## **5. Discussions Items**

- a. Ms. Verdery stated that Easton Hardscape and Landscape Supply was issued a notice to proceed in 2017 for approval of a major site plan to construct a 2,400 sq. ft. maintenance building. She explained that the applicant appeared before the Planning Commission on April 5, 2017 to reduce the size of the building and the approval was granted. Ms. Verdery stated the applicant is now requesting the Minor Amendment be rescinded and they be allowed to move forward with the original building. Ms. Verdery said she checked with Mr. Kupersmith and there is no issue going back to that size, but wanted the Commission's recommendation to be sure everyone was comfortable with the project.

Commissioner Fischer stated they were initially comfortable with moving forward on the original building.

Barry Griffith stated this is just a housekeeping issue as demolition on site has already taken place and grading was already started. He explained they are in the process of filing for a permit and the one-year extension expires January 9, 2019.

**Commissioner Councill moved to approve the second minor modification for Easton Hardscape; Commissioner Boicourt seconded the motion. The motion carried unanimously. (4-0 Spies absent)**

## **6. Staff Matters**

Ms. Verdery stated that the updated Chapter 190 goes into effect on November 10<sup>th</sup> as does the new village zoning designations. However, she added, the Critical Area portions will not yet be in effect as they are subject to Critical Area Commission review. She noted there will be a Public Hearing by the Critical Area Panel November 29<sup>th</sup>, 6:30 p.m. at the Community Center.

Ms. Esposito said the public hearing includes a 5-member panel that will give a presentation to the public and the County will also give a presentation of the changes to the code. She added that after the public meeting, the panel will review the comments and they anticipate a decision by the Commission sometime in February.

Ms. Verdery stated the Town of Easton Mixed Used Waterfront District is moving forward again. She explained the staff has received a draft of the ordinance and a Town Meeting is scheduled at 6 pm on December 5th. She stated that Lynn Thomas and Sharon Van Emburgh from the Town have offered to come before the Planning Commission that morning and they have also offered to meet with Staff and Planning Commission representatives.

Mr. Salinas stated the Working Waterfront Overlay District survey has been extended for one week and they are close to 260 responses. He explained the survey is another tool to assist the consultant with their initial draft of the zoning district. He added that once the survey closes, staff will compile the information and send it to the consultant. He stated that there will be community meetings a staff expects a formal review after the end of the year. Commissioner Fischer stated he has concerns. He explained that the working waterfronts are totally different in Tilghman, Bellevue and McDaniel and expressed concern that the Working Waterfront overlay could cause mischief in some communities. He also explained that there were a couple of questions in the survey that were out of place, including one question referring to affordable housing. Mr. Salinas responded that the County Council would have to map the districts on certain properties like any other overlay as the overlay is intended to revitalize waterfronts. Affordable housing, he explained, that was more of a business attraction and retention concern. Commissioner Fischer stated one of the problems is the impact of short-term rentals on affordable housing as they are eating up the housing market. Commissioner Sullivan discussed the short-term rental article he had recently passed out to the Commission members recently.

Commissioner Councell asked if the Commission members need to get a face-to-face with the new Council. Staff stated that would be a good idea for the future.

## **7. WorkSessions**

## **8. Commission Matters**

Commissioner Fischer stated this is his last meeting. He noted that he has spent five years on the Commission and it has been a professional team. Commissioner Boicourt stated they will miss him. Commissioner Councell stated he considers him a good friend and has the utmost respect for him. Ms. Verdery stated as a fellow Navy Veteran the best ship is friendship and she has gained that as he has always had tremendous leadership.

## **9. Adjournment**—Commissioner Fischer adjourned the meeting at 11:10 a.m.

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